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Paper 27  
Filed January 29, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Thomas W. Oakes,**  
Junior Party  
(Application 10/785,234),  
v.

**GM Global Technology Operations, Inc.,**  
Senior Party  
(Patent 7,459,065  
Inventors: Nelson A. Kelly and Thomas L. Gibson).

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Patent Interference No. 105,692 (RES)  
(Technology Center 1700)

Before: RICHARD E. SCHAFER, JAMESON LEE and SALLY G.  
LANE, *Administrative Patent Judges.*

SCHAFER, *Administrative Patent Judge*

- 1     **Amended Judgment – Concession of Priority – 37 CFR § 41.127(b)(3)**  
2             Oakes has filed a concession of priority. Paper 24. Oakes concession  
3     is construed as a request for adverse judgment as to the subject matter of  
4     Count 1 (Paper 18, p. 2). 37 CFR § 41.127(b).

1 Oakes was authorized to and has filed amended claims. Paper 25.  
2 Oakes requests that the amended claims be placed into the administrative  
3 record of his application 10/785,234. GM does not oppose that request. The  
4 request is granted and a copy of the amendment shall be made of record in  
5 the application. As noted in Paper 23, while the paper amending or adding  
6 claims would be made of record in the application file, the Board has no  
7 control over how the examining corps will act on those claims. How the  
8 amendment will be treated is totally at the discretion of the Office of the  
9 Commissioner for Patents.

10 It is

11 **ORDERED** that judgment on priority as to the subject matter of  
12 Count 1 (Paper 18, p. 2) is awarded against the junior party, Thomas W.  
13 Oakes;

14 **FURTHER ORDERED** that junior party, Thomas W. Oakes, is not  
15 entitled to a patent including the subject matter of claims 1, 3-20, 23-27, 29-  
16 35 of Application 10/785,234;

17 **FURTHER ORDERED** that claims 1, 3-20, 23-27, 29-35 of  
18 Application 10/785,234 all corresponding to Count 1 are finally refused (35  
19 U.S.C. § 135(a));

20 **FURTHER ORDERED** that a copy of the paper titled "Oakes  
21 Amended Claims" (Paper 25) be made of record in the file history of  
22 Application 10/785,234;

23 **FURTHER ORDERED** that a copy of this judgment be made of  
24 record in the file histories of Patent 7,459,065 and Application 10/785,234;



cc (electronic delivery):

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